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Do ALL Canadians Have a Right to Housing?

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Do ALL Canadians Have A Right To Housing?

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THE RIGHT TO HOUSING

Do Canadians have the right to housing, or is it simply a political slogan? Widespread use of the phrase emerged in the late 1960's. By 1973, it had become part of our National Housing Act. Although people line themselves up on each side of the issue, no one has a clear idea of what the right to housing really means.

In 1968, the Canadian Welfare Council organized the first Canadian Conference on Housing to discuss priorities for housing policy. Over five hundred delegates came, representing government, business, the design and planning professions, various non-profit organizations, and neighbourhood and tenant associations. The conference, written up in The Right to Housing, adopted a series of recommendations that included:

> all Canadians have the right to be adequately housed whether they can afford it or not." (Wheeler, 1969:331)

In July 1968, the Cabinet set up the Federal Task Force on Housing and Urban Development to report on ways that government could work with the private sector to help meet the housing needs of all Canadians. The Task Force travelled

to 27 cities and towns, including all provinces and territories. It received over 500 briefs from organizations and individuals. The final report in January 1969 recommended that:

> every Canadian should be entitled to clean, warm shelter as a matter of basic human right. (Federal Task Force, 1969:22)

When the government adopted amendments to the 1973 National Housing Act, it implemented many suggestions of the 1968 Task Force. The minister responsible for housing told the House of Commons that all Canadians had the right to good housing at prices they could afford.

> Good housing at reasonable cost is a social right of every citizen of this country.... [This] must be our objective, our obligation and our goal. (House of Commons, Debates, March 15, 1973, p. 2257)

The minister added that the 1973 bill amending National Housing Act "is an expression of the government's policy, part of a broad plan, to try to make this right and this objective a reality."

These examples show that the use of the "right to housing" as a political slogan and a stated government goal grew during the 1960's. As early as the 1940's, however, a prominent housing expert had referred to housing as a right.

Humphrey Carver's Houses for Canadians, published in 1948, is one of the first postwar studies of Canadian housing policy. The first and last chapters in particular provide a thoughtful analysis of the problem and its solution.

> the solution to this central problem of housing [low income households] involves the forming of a philosophy concerning the rights and equities within our society. For if it is not considered important that every adult and every child in a Canadian community should be able to enjoy a certain way of life, then there is no housing problem. (Carver, 1948:128)

The issues Carver raises are still pertinent forty years later. Most Canadians have a good standard of housing, but many lower income households remain excluded from adequate and affordable housing appropriate to their needs.

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Until the second world war, the way that a government treated its citizens was entirely up to the rulers of that country. Since Hitler and Stalin, however, international law has changed profoundly. How a state treats its citizens is no longer a private matter. Today, violation of human rights in one country is a legitimate concern for all people and all nations.

On December 10, 1948 a special session of the United Nations General Assembly met in Paris to adopt the Universal Declaration of Human Rights. This document is the first catalogue of human rights and freedoms adopted by the international community.

The Universal Declaration helped begin the process of recognizing housing rights throughout the world. Article 25(1) refers specifically to housing:

> Everyone has the right to a standard of living adequate for health and well-being ... including food, clothing, housing and medical care and necessary social services.

In 1966, the international community further recognized housing rights when the U.N. General Assembly adopted the International Covenant on Economic, Social and Cultural Rights. Article 11 codified the right to housing by providing that:

> The States Parties to the present Covenant recognize the right to everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

Canada has ratified these and virtually all similar international human rights covenants and agreements.

NOT EVERYONE AGREES

Some people disagree that housing is a basic human right. Conservative economists contribute most of the published arguments against housing as a right. For example, in a 1981 Fraser Institute book on rent control, economist Walter Block writes:

> All rights have corresponding obligations. If I have a right to property, you have an obligation to refrain from stealing it or trespassing upon it. If you have an inviolable right in your person, I, and everyone else, have an obligation to leave you unmolested. Note that these are negative rights. They make incumbent upon people to refrain; to cease and desist; to avoid certain aggressive behaviour. But they impose no positive obligations whatsoever. (Block, 1981:300)

Block favours negative rights and freedoms but not positive rights. In particular, he opposes the new set of economic and social rights outlined in the U.N.'s declaration and other international human rights covenants and agreements. As Block explains:

> Of late, however, a new type of "right" has arisen.... What is claimed here is not the right to be left alone, free to build, buy, or rent whatever shelter one can afford. Now demanded is a right to housing which implies an obligation on the part of other people to provide it. This claim, in other words, is for a so-called positive right, not the negative rights of classical origin. But what is actually at stake here has nothing to do with rights at all. On the contrary, it is a disguised, and therefore quite insidious, demand for wealth. (Block, 1981:300-301, emphasis in the original)

Few political theorists and legal philosophers consider the distinction between negative and positive rights legitimate. In his book Theories of Rights, Jeremy Waldron notes that:

> few now take seriously the suggestion, quite common a few decades ago, that recognition of the so-called socio-economic rights (rights to positive assistance such as free medical care, elementary education, or a decent standard of living) is a category mistake or a debasement of the language of rights. (Waldron, 1984:11)

People disagree about the specific nature of economic, social and political rights, but no one seriously suggests that negative liberties are the only rights we can have. (Waldron, 1984:11)

It is helpful to distinguish between the three kinds of rights contained in the Universal Declaration of Human Rights:

* ***civil rights and liberties*** such as speech, publication, association, religion, movement;

* ***political rights*** such as the ability to influence government and choose representatives; and

* ***social and economic rights*** such as the right to work, the right to social security during illness and old age, the right to an income consistent with human dignity, the right to leisure, and the right to an education.

Many people believe that all individuals ought to enjoy these rights equally. Although these rights have always existed in theory, most nations have only recently recognized and guaranteed them. Civil and political rights date from the 17th and 18th centuries. Social and economic rights date only from the mid-twentieth century.

To understand the political motives of those who distinguish between negative and positive rights, we must remember that the first two rights limit state action. Civil rights are rights of individuals against the state and political rights are rights of individuals to control the state. Few Canadians question these as basic rights of all citizens.

The debate, therefore, is over the newer social and economic rights. Block is correct that these rights are claims guaranteed by the state by law, by taxes and by services and income supplements. In distinguishing between negative and positive rights, however, he must deny the legitimacy of social and economic rights in order to promote and defend his philosophical argument for a minimalist role of the state. For political reasons, he chooses a very narrow definition of human rights to limit the role of public policy.

No logical disparity exists between these rights. According to C.B. Macpherson, they are all "claims for a right to life at a genuinely human level. All that has changed is the acceptable view of possible ways of securing the individual right to the material means of a fully human life." (Macpherson, 1986:26)

The arbitrary distinction between negative and positive rights does not consider the actual socio-economic position of people. It relates, says Waldron, to

broader questions of political morality, and particularly to laissez-faire and minimalist theories of the state. (Waldron, 1984:11)

This approach, he notes, has been under steady attack throughout the twentieth century. Human rights attract continuing debate because the package of rights that we accept as a society helps to define our criteria for policy choices. The debate rages because individual rights provide the starting point for political morality.

IS THERE A RIGHT TO HOUSING?

Many international covenants acknowledge the right to housing. There is no question that many people consider it to be a basic human right. The difficult question is: what does the right to housing mean in Canada?

For homeless individuals, the answer is simple. There is debate, however, over who the homeless are and what homelessness is. Is someone sleeping in a temporary shelter homeless? Most of us would agree. Home is not simply a shelter. It is more than a roof and four walls. By defining a home as more than minimal shelter, we assume a set of explicit or implicit standards. Below these standards, one is homeless: above them, one is not. Setting such standards is no simple task.

If most Canadians have good housing, then the slogan "the right to housing" may have no meaning. We could conclude, therefore, that the right to housing is irrelevant because our housing system has delivered good housing to most Canadians.

There are two problems with this conclusion. First, are we satisfied that not all Canadians have good quality housing at prices they can afford? Second, do we know what the right to housing really means? We all have notions of what the claim means to us. Do we define this right by comparing Canadian housing with housing in other countries? Or do we compare the housing of some Canadians with the housing of other Canadians?

Even a wealthy country that delivers good housing to most citizens has a long way to go to secure good housing for all. Much depends upon the way we decide to define the right to housing. A list of options published some twenty years ago shows the range of issues that we must consider: the right to free choice in housing type and location and use, the right to security of tenure, the right to own one's home, and the right to control one's environment. (Michelman, 1970)

THE CHALLENGE TODAY

The debate over the right to housing comes down to a set of ethical questions. There is no scientific way to arrive at an answer. As voters, each one of us must make up our minds about the kind of society we want.

* What does it mean to lead a life of dignity?

* What are the necessary material means required to lead a life of dignity?

* How does society devise those institutions which allow all people to live with dignity?

* What role does housing quality, quantity, price and security play in living with dignity?

The answers to these questions form the philosophical and moral framework for the policy decisions that face Canadians. Since the 1940's, Canada has made major health care decisions that guarantee access to quality health care for rich and poor.

Such is not the case with housing. Access to adequate housing varies between rich and poor. It varies between two-parent families and one-parent families. Much depends on whether you are young, old or middle-aged.

What we need to consider in the way Canada produces and distributes housing is Carver's philosophy on rights and equities in our society. Canada has thought through health care in recent decades, and is thinking through day care now. We need to think through the right to housing.

After the war, Canada had to tackle the practical problem of organizing national resources to produce enough houses. The country also had to address the ethical problem of making policy decisions about housing rights of people with low incomes and special needs.

We have solved our practical problem. We can build all the homes we need. Few other countries have reached this level of production, and we often forget what a major achievement it is. If an earthquake should devastate one of our cities, we could quickly rebuild to very high standards.

We have yet to tackle the second part of the postwar housing challenge. We have not devised a housing system and housing institutions which include all

Canadians. We have not heeded Carver's advice about equity and fairness to all Canadians.

> The ultimate objective of the national housing programme should be the provision of a decent dwelling for every Canadian ... From this it follows that the crucial and ultimate test of the effectiveness of housing policy is the condition of the worst housed families in our communities. (Carver, 1948:123)

No serious technical or practical problems stand in our way. The challenge of the 1990's is clear: the need to complete our housing system. Although 95% of our housing system relies on the market, the market cannot deliver housing to people unable to generate demand.

WHAT PROGRESS HAVE WE MADE IN THE 1980'S?

In the 1980's, we have excluded even more Canadians from access to good quality housing. Many more households cannot afford the housing they have or need. Data on income and poverty points to an even worse situation in future.

* Real incomes of many Canadians have decreased by 4 to 6 percent since 1981. In contrast, from 1965 to 1976 real average family incomes increased by 4.2% per year.

* In 1986 1.9 million Canadians (7.5 percent of the population) were on social assistance, an increase from 1.4 million (5.7 percent of the population) in 1981. (Canada, National Council of Welfare, 1987:8)

The National Council of Welfare's 1988 Poverty Profile, provides data on poverty rates by tenure.

* 26% (500,000) family households in the rental sector live in poverty compared to 7.3% of home owners.

* 38% (800,000) single person households in the rental sector live in poverty compared to 24% of owners. (Canada, National Council of Welfare, 1988:63-64)

The percent of households paying more than 30% of income on rent keeps going up. In 1976 it was 23% of all renter households; in 1986 it was 27%. (Statistics Canada, 1987:10)

Clearly, our housing system cannot respond adequately to social need. People living in poverty simply cannot generate market demand or pay market rents or prices. Circumstances might have been better if we had improved income distribution in recent decades, but we have not. Statistics Canada figures show that the gap between rich and poor has not changed between the 1950's and the

1980's. The top 20% of the population has 42% of the national income, and the bottom 20% has only 4%. (Statistics Canada, 1984)

AN AGENDA FOR THE FUTURE

Neither the problem nor the solution is new. Carver emphasized the need to organize our housing system to provide lower income households with adequate housing as a right. The solution, therefore, is to devise an inclusive housing system.

Canadians are already justly proud that the country has been able to deliver a high standard of housing for most citizens. It is, however, an exclusive system that permits access to housing according to economic status.

To develop an inclusive housing system, Canada must put housing on the public agenda as a priority. We must set up a realistic work program with a timetable for addressing Canada's remaining housing needs.

Postwar housing policy made the mistake of assuming there was a cheap way to deliver housing to poor people. Housing is expensive. No clever program exists which will solve our remaining housing problems at low cost. Education and health care are not cheap either. Yet we believe it is wrong to have good quality

education and health care for those who can pay and poor quality for those who cannot.

The starting premise for an inclusionary housing system is recognizing that all Canadians have the right to decent housing, in decent surroundings, and at rents and prices they can afford. Two decades ago, the Canadian Conference on Housing suggested that:

> Canadian housing goals will not be easy to achieve. They require much higher priority within the public economy (federal and provincial) and should be seen to be as socially essential as education. No government is spending according to the priorities this conference insists on. (Wheeler, 1969:331-332)

National, regional and local organizations must work to put housing higher on the public agenda and to improve Canadian housing institutions. These are, indeed, very difficult tasks. Do we continue to waste time and money studying the problem? Or do we start now on a course of action which, in any case, must eventually begin?

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APPENDIX

A. Quotes about the Right to Housing from Canadian Sources

B. Quotes about the Right to Housing from Major International Declarations and Covenants

APPENDIX A

THE RIGHT TO HOUSING:

CANADIAN SOURCES

Towards a Philosophy of Housing Rights and Equities

Humphrey Carver, 1948

The solution to this central problem of housing [low income households] involves the forming of a philosophy concerning the rights and equities within our society. For if it is not considered important that every adult and every child in a Canadian community should be able to enjoy a certain way of life, then there is no housing problem.

Humphrey Carver, Houses for Canadians, University of Toronto Press, 1948, p. 128.

The Right to Adequate Housing

Canadian Conference on Housing, 1968

Recommendations of the Conference:

1. The Canadian Conference on Housing declares that all Canadians have the right to be adequately housed whether they can afford it or not.

2. Housing is more than shelter and must be within a context of community that includes provision of related facilities and services to make livable the urban environment in which most Canadians will reside.

3. A wider range of housing, including private, co-operative, non-profit and public housing, and greater freedom of choice of location, design and form of tenure should be available to low as well as middle-income groups.

Michael Wheeler, ed., The Right to Housing: Papers and Proceedings of the First 'Canadian Conference on Housing', Montreal: Harvest House, 1969, p. 331.

A Declaration of Housing Policy Principles

Federal Task Force on Housing and Urban Development, 1969

1. Housing and Urban Development are an urgent priority for the people of Canada and must be treated as such by their elected representatives at all levels.

2. Every Canadian should be entitled to clean, warm shelter as a matter of basic human right.

3. While it will take some time to realize this goal, a concerted effort is required by all concerned....

4. The aim of government policies should be to generate sufficient housing stock of various forms so that all Canadians may exercise their own freedom of choice as to the style and tenure of housing in which they live.

5. This fundamental freedom of choice should not be restricted to those able to compete in the private market, but should also be an underlying principle of public policies to assist low-income groups.

Report of the Federal Task Force on Housing and Urban Development, Ottawa, 1969, p. 22.

Housing as a Social Right of Every Citizen

Ron Basford, Minister of State for Urban Affairs, 1973

When we talk, as we undoubtedly will, in this debate in a general way about the subject of housing we are talking about an elemental human need -- the need for shelter, for physical and emotional comfort in that shelter. When we talk about people's basic needs -- the requirements for survival -- society and the government obviously have an obligation to assure that these basic needs of shelter are met.

I have already acknowledged this obligation in stating that good housing at reasonable cost is a social right of every citizen of this country. As legislators, as administrators, as a federal government working with the provinces and with the private sector, that must be our objective, our obligation and our goal. The legislation which I am proposing to the House today is an expression of the

government's policy, part of a broad plan, to try to make this right and this objective a reality.

The measures presented in this bill are designed, first of all, to give Canadians the kind of help that they have a right to expect in providing themselves and their families with adequate shelter. More particularly, they are directed first at those people whose need is most urgent - the old, the poor and those people who for one reason or another do not have access to the resources which this country can provide.

In considering people's need for shelter, however, we cannot concern ourselves simply with a roof and four walls. Man is a social animal and we must look beyond his house to the community of which it is a part. The community, as well as the house, must be safe and healthy and must allow and encourage man and his family to achieve the fullest possible growth and development, physically, emotionally and spiritually.

House of Commons, Debates, March 15, 1973, p. 2257.

Housing as a Basic Social Right, Not a Commodity

Ed Broadbent, Leader of the NDP, 1975

We believe that housing, like medical services and like education, at least up to university level, should be available as a basic social right. Housing is a right to which every Canadian family is entitled by virtue of being part of our society. We test housing legislation by asking how it conforms to this general principle. We ask does the legislation recognize that housing is a social right, that houses are not a commodity like any other in society? Second, if the legislation recognizes housing as a right, does it do something to fulfil that right? If the legislation meets either test, particularly if it meets our first point, we supported it, even though it may not go far enough in providing all the necessary details. Certainly the first test is crucial....

Of the many ministers and departments which have been given the responsibility for housing, not one has brought forward legislation clearly embodying the notion that housing is a social right. Actually the legislation which has come forward has suggested just the opposite, namely, that the market will ultimately determine whether a Canadian family will obtain a house. Any mechanisms introduced by the government for providing housing have been aimed at the banks, trust companies and other financial institutions. The aim of the government has always been to give incentives to these basically market-oriented institutions to provide services.

House of Commons, Debates, February 27, 1975, p. 3649.

APPENDIX B

THE RIGHT TO HOUSING
IN INTERNATIONAL HUMAN RIGHTS
DECLARATIONS, COVENANTS AND CONVENTIONS

THE UNITED NATIONS
UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

The Universal Declaration of Human Rights was adopted and proclaimed by United Nations General Assembly (Resolution 217A (III)) on December 10, 1948 (UN Doc. A/810 (1948)). Article 25(1) states:

> Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

THE UNITED NATIONS INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966

The International Covenant on Economic, Social and Cultural Rights was adopted and opened for signature, ratification and accession by U.N. General Assembly Resolution 2200A (XXI) on December 16, 1966 and entered into force on January 3, 1976 (21 U.N. GAOR, Supp. No. 16, p. 49). A total of 91 countries have ratified the Covenant. Article 11(1) states:

> The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

THE UNITED NATIONS INTERNATIONAL CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION, 1965

The International Convention on the Elimination of Racial Discrimination was adopted and opened for signature and ratification by United Nations General Assembly Resolution 2106A(XX) on December 21, 1965 and entered into force on January 4, 1969 (660 U.N.T.S., p. 1950). A total of 124 countries have ratified the Convention. Article 5(e)(iii) states:

> In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right to everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:...(e) Economic, Social and Cultural Rights in particular...(iii) the right to housing.

THE UNITED NATIONS DECLARATION ON SOCIAL PROGRESS AND DEVELOPMENT, 1969

The U.N. Declaration on Social Progress and Development was proclaimed by the U.N. General Assembly on December 11, 1969 (Resolution 2542(XXIV). Part II states:

> Social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms, through the attainment of the following main goals: ... (f) The provision for all, particularly persons in low income groups and large families, of adequate housing and community services.

THE UNITED NATIONS INTERNATIONAL CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, 1979

The International Convention on the Elimination of Discrimination Against Women was adopted and opened for signature, ratification and accession by U.N. General Assembly Resolution 34/180 on December 18, 1979 and entered into force on September 3, 1981 (UN Doc. A/RES/34/180). A total of 94 countries have ratified the Convention. Article 14(2)(h) states:

> States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right...(h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

THE UNITED NATIONS DECLARATION ON THE RIGHTS OF THE CHILD, 1959

The U.N. Declaration on the Rights of the Child was proclaimed by the U.N. General Assembly on November 20, 1959 (Resolution 1386(XIV)). Paragraph 4 states:

> The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end special care and protection shall be provided to him and his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

THE VANCOUVER DECLARATION ON HUMAN SETTLEMENTS, 1976

The Vancouver Declaration on Human Settlements was adopted by the United Nations Conference on Human Settlements in 1976. (UN Doc. A/CONF.70/15). Section III(8) states:

> Adequate shelter and services are a basic human right which places an obligation on governments to ensure their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community-action. Governments should endeavour to remove all impediments hindering attainment of these goals. Of special importance is the elimination of social and racial segregation, inter alia, through the creation of better balanced communities, which blend different social groups, occupations, housing and amenities.

THE UNITED NATIONS CONVENTION RELATING TO THE STATUS OF REFUGEES, 1951

The U.N. Convention relating to the Status of Refugees was adopted on July 28, 1951 by the U.N. Conference od Plenipotentiaries on the Status of Refugees and Stateless Persons, convened under U.N. General Assembly Revolution 429(V) of December 14, 1950. The Convention entered into force on April 22, 1954. Article 21 states:

> As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances.